

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

HEADWATER RESEARCH LLC

Plaintiff,

v.

SAMSUNG ELECTRONICS CO., LTD and
SAMSUNG ELECTRONICS AMERICA, INC.,

Defendants.

Case No. 2:22-CV-00422-JRG-RSP

**DEFENDANTS' SUR-REPLY TO PLAINTIFF HEADWATER RESEARCH LLC'S
REPLY IN SUPPORT OF ITS MOTION FOR PARTIAL SUMMARY JUDGMENT OF
NO INVALIDITY BASED ON WRITTEN DESCRIPTION (DKT. NO. 230)**

Headwater's ("HW") Reply illustrates why summary judgment is inappropriate. For example, HW claims that Samsung's expert "identified two possible interpretations of the at issue claim language," and that the "question is whether the specification supports both interpretations." Dkt. 303. Not so. As Samsung repeatedly explained in its brief and Dr. Schonfeld plainly stated in his report, the actual issue is whether the Asserted Patents contain support for equating the separate concepts of (1) assessing whether an application is interacting with a user, and (2) determining whether an application is in the foreground. *See* Dkt. 282. HW equates these concepts for purposes of infringement, and the specification contains no such support. *Id.* at 4-5.

Rather than address the issue, HW argues only that the conflation of these separate concepts—for which the specification indisputably contains no support—is just an "incorrect, self-serving characterization of Headwater's theories, which Samsung tellingly does not support with proof from any Headwater expert report." Dkt. 303. But HW does not explain how Samsung's characterization is incorrect. *Id.* And one need look no further than paragraph 280 of Dr. Wesel's infringement report where he expressly *disagrees* with Samsung's argument that "***classifying an application as being in the foreground is not the same thing as classifying an application as interacting in the foreground with a user.***" Dkt. 165-10 at ¶ 280 ("I disagree."). Dr. Wesel clearly equates "being in the foreground" with "interacting in the foreground with a user." *Id.*

Finally, HW falsely suggests that Samsung's brief relies only on Dr. Schonfeld's Rebuttal Report by pointing to a single, cherry-picked citation in the brief's introduction. Dkt. 303. In reality, Samsung's brief is replete with citations to Dr. Schonfeld's Opening Report, where he addressed Headwater's conflation of these concepts in its infringement contentions. That HW's expert also equated these concepts only confirms Samsung's characterization of HW's theories.

For the above reasons, Samsung respectfully requests that Headwater's motion be denied.

Dated: June 14, 2024

Respectfully submitted,

By: /s/ Jared Hartzman

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was filed electronically in compliance with Local Rule CV-5 on June 14, 2024. As of this date, all counsel of record had consented to electronic service and are being served with a copy of this document through the Court's CM/ECF system under Local Rule CV-5(a)(3)(A).

/s/ Jared Hartzman

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